

Internal Revenue Service
District Director

Department of the Treasury
[REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

EIN: [REDACTED]

Date: SEP 26 1991

[REDACTED]

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Your articles of incorporation state that: "The specific and primary purpose of this corporation is to be a residential real estate management association..." The articles also indicate that you are "organized and operated to provide for the acquisition, construction, management, maintenance, and care of property owned by this corporation..."

In Part II, Question 1, of Form 1024, Application for Recognition of Exemption, you indicate that you were formed at the request of [REDACTED] County so that, should it discontinue the road and drainage maintenance for which it currently has responsibility, an association would exist to undertake these activities.

You also state that, barring this unlikely event, your only activity will be to review building plans to confirm that they conform to the covenants, conventions and restrictions of your association.

Your membership consists of the [REDACTED] lots in your subdivision with each lot owner having one vote.

Section 501(c) of the Code describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Section 1.501(c)(4)-1(a) of the Income Tax Regulations provides that a civic league or organization described in section 501(c)(4) of the Code may be exempt if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare. The Regulations describe social welfare as promoting in some way the common good and general welfare of the people of the community. A section 501(c)(4) organization is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-99, 1974-1 C.B. 131, provides that, to qualify for exemption under section 501(c)(4), a homeowners association must (1) serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) not conduct activities directed to the exterior maintenance of private residences, and (3) make the common areas or facilities it owns and maintains available for the use and enjoyment of the general public.

You have indicated that your sole activity, both currently and for the foreseeable future, is the enforcement of the covenants, conventions and restrictions of the association. This service constitutes a private benefit to your members and is not an activity promoting social welfare within the purview of section 501(a) of the Code.

Accordingly, we hold that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

You agreed to this determination by signing Form 6018, Consent to Proposed Adverse Action, on [REDACTED].

[REDACTED]

You are required to file income tax returns annually with your district director.

You appear to be a residential real estate management association as defined in section 528 of the Internal Revenue Code. Such an association is taxed as a corporation, but with modification of income. The modification permits exclusion of exempt function income for tax years beginning after December 31, 1973. Exempt function income is any amount received as membership dues, fees, or assessments from owners of real property. You may elect to be treated as a section 528 homeowners association by filing Form 1120-H, Income Tax Return for Homeowners Association.

Sincerely yours,

[REDACTED]

District Director